



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/964,852 | 09/28/2001 | Pekka Talmola | 04770.00024 | 2368 |

22907 7590 04/23/2007
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

| |
|----------|
| EXAMINER |
|----------|

BROWN, RUEBEN M

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2623

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/23/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 09/964,852 | Applicant(s) TALMOLA ET AL. | |
| | Examiner Reuben M. Brown | Art Unit 2611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/15/02;2/7/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 & 15-17 rejected under 35 U.S.C. 102(b) as being anticipated by Hylton, (U.S. Pat # 5,708,961).

Considering claim 1 the claimed method of distributing a data stream locally, comprising;

‘receiving first transmission from a digital broadcast network by means of a gateway terminal’ is met by the shared processing system 10, in Hylton, Fig. 1, which receives video programming from a Digital Broadband Network 5.

‘processing’ and ‘re-transmitting the first transmission via wireless digitally modulated local broadband’ is met by the discussion in Hylton that video programming is received from the Digital Broadband Network 5 and retransmitted within the user home wireless network, via a modulator 17, see col. 4, lines 55-67; col. 6, lines 19-44 & Fig. 1.

Art Unit: 2623

'receiving the wireless digitally modulated broadband second transmission by at least one multimedia terminal', is met by the operation of the set top terminal 100, col. 7, lines 35-67 thru col. 8, lines 1-45.

Considering claim 15, the modulator 17 in Hylton, at least uses QAM, col. 6, lines 18-30.

Considering claim 16, Hylton teaches that two-way signaling uses the 902-928 MHz frequency band, col. 8, lines 18-34.

Considering claim 17, the claimed feature is broad enough to read on the discussion in Hylton that video programming and signaling uses frequency hopping techniques.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-10 & 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton, in view of Candelore, (US-PGPUB 2002/0188567).

Considering claims 2, 4 & 10, regarding the claimed feature of, 'de-multiplexing the data stream of the first transmission, re-multiplexing at least part of the data stream with a locally stored data resulting in the wireless digitally modulated transmission', Hylton teaches that the video programming from the Digital Broadband Network 5 is de-multiplexed by the Program Selectors 13, before being transmitted to the set top terminals 100, Fig. 9; col. 42, lines 63-67 thru col. 43, lines 1-15.

However, Hylton does not teach storing data locally. Nevertheless, Candelore teaches locally storing and distributing video data, at least to and from the Hard Disk Recording Unit 150, Fig. 1; Para [0030-0031], [0062] & [0064]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton to store data locally, for the desirable advantage of allowing the subscriber to maintain a library of video programs which can be copied and/or viewed multiple times based on the copy protection and/viewership restrictions adopted by the content provider, as taught by Candelore, see Para [0005], [0045], [0048] & [0059].

Considering claim 3, the Digital VCR 140 & Hard Disk Recording Unit 150, in Candelore stores video data, as well as multiple media data.

Considering claims 5-9 & 13-14, Hylton does not discuss any aspects of scrambling video data. Nevertheless, Candelore discloses that scrambling is a technique used to restrict

Art Unit: 2623

video programming to only authorized viewers. Regarding claim 6, Candelore goes on to teach that a video program may be broadcast through the air in scrambled form, then descrambled by the receiver 110 (descrambler unit 340) in order to be shown on display 160, and also re-scrambled by Re-Scrambler Unit 350, in order for storage in the Hard Disk Recording Unit 150, see Para [0041-0046]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton with the feature of re-scrambling a received video program, for the benefit of allowing the content provider greater control over its reproduction, as taught by Candelore, see Para [0009-0012], [0048].

As for the additionally claimed feature of a password, Candelore teaches that a viewer needs to fulfill certain requirements in order to view scrambled content, such as timely purchase via various pay for view scenarios, Para [0059], but does not discuss the use of a password to additionally control access. Official Notice is taken that at the time the invention was made, the use of password protection to restrict accounts to authorized account holders was old in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Hylton & Candelore to use password protection, for the known purpose of preventing unauthorized users from access the subscriber's account.

Considering claim 10, Candelore teaches that the video program may be at least be stored in the Hard Disk Recording Unit 150, Para [0030-0031].

5. Claims 11-12, 18-19, 21 & 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton, in view of Janik, (U.S. Pat # 7,107,605).

Considering claims 11-12, the claimed second transmission in a frequency allocated for free use, such as an ISM frequency, Hylton discloses that the modulator 17 may transmit the programming to terminals using channels that are the same or similar to a broadcast TV channel, col. 6, lines 18-35. However, Hylton does teach that the signaling messages between the set top terminals and the shared processing system 10 are transmitted in the one of the ISM bands, (902-928 MHz), see col. 8, lines 18-34; col. 19, lines 24-56 & col. 20, lines 1-30.

Hylton though, does not specifically disclose that the video data may be transmitted in one of the ISM bands. Nevertheless Janik, which is in the same field of endeavor, teaches a wireless home network alternatively operating in an ISM band (2.4 GHz), col. 1, lines 45-67 & col. 5, lines 8-31. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton with the technology of alternatively transmitting the video programming in the ISM band, as disclosed by Janik at least for the known advantage of more easily avoiding interference in the other bands.

Considering claims 18-19 & 21, the claimed elements of a gateway terminal for receiving and transmitting data stream that correspond with the features presented in claim 1, are likewise treated. The additionally claimed feature of, 'the second transmission by a broadband

Art Unit: 2623

digital transmission at a frequency allocated to free use', corresponds with subject matter mentioned above in the rejection of claims 11-12, and is likewise treated.

Considering claims 27-28, the combination of Hylton & Janik (col. 5, lines 11-30; col. 6, lines 1-67) reads on the claimed subject matter.

6. Claims 20, 22-26 & 29-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton & Janik, further in view of Candelore.

Considering claim 20, the claimed feature of, 'saving the first transmission temporarily at the gateway terminal' corresponds with subject mentioned above in the rejection of claim 2, and is likewise treated.

Considering claims 22-23, the claimed feature of, 'descrambling the first transmissions, if necessary' corresponds with subject mentioned above in the rejection of claim 5, and is likewise treated.

Considering claims 24-25, the MPEG converter in Hylton is included within the set top terminal, col. 14, lines 55-67 thru col. 15, lines 1-30. However, as discussed in the rejection of claims 5-6, Candelore discloses descrambling, then re-scrambling a video program. The claimed MPEG A/D converter corresponds with the operation of the digital VCR 140 and hard disk

Art Unit: 2623

recording unit 150 which is used to record analog or digital video, into digital format, Para [0030-0031].

Considering claim 26, Hylton discloses QAM modulation.

Considering claims 29-30 & 34-35, the claimed feature of a multimedia terminal for providing a user with a data stream, corresponds with subject matter mentioned above in the rejection of claims 5-6 & 11-12, and is likewise analyzed.

Considering claims 31-33, Janik teaches the use of IEEE 802.11 & HomeRF technologies.

Considering claim 36, both Hylton & Janik, disclose technology supporting two-way wireless communication.

Considering claims 37-40, the claimed features read on the general disclosure of Hylton (Fig. 1) & Janik (Fig. 1; Fig. 14; col. 6, lines 1-50; col. 17, lines 1-50).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Collins Local wireless distribution & gateway.
- B) Ellis Teaches local storage and distribution of video programming.
- C) Ben-Michael Local Home distribution network.

Art Unit: 2623

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

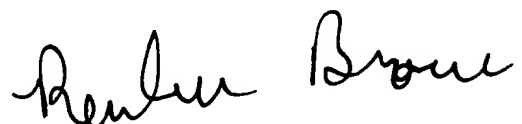
(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


REUBEN M. BROWN
PATENT EXAMINER